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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

KURT BERNARD SANCHEZ,

Defendant and Appellant.

F076723

(Super. Ct. Nos. PCF298173B,  
PCF298244)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Tulare County. Gary M. Johnson, Judge.

Kurt Bernard Sanchez, in propria persona; Conness A. Thompson, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Levy, Acting P.J., Meehan, J., and Snauffer, J.

## **STATEMENT OF APPEALABILITY**

Appellant Kurt Bernard Sanchez timely filed a notice of appeal on December 14, 2017, from the judgment imposed on January 18, 2017, following a plea of no contest. The judgment imposing a prison sentence finally disposes of all issues between the parties (Cal. Rules of Court, rule 8.204(a)(2)(B)) and is appealable pursuant to Penal Code section 1237, subdivision (a).<sup>1</sup> Sanchez requested and was granted a certificate of probable cause. (Cal. Rules of Court, rule 8.304(b)(1).)

## **STATEMENT OF THE CASE**

### **Case No. PCF298173B**

In a felony complaint filed on April 11, 2014, Sanchez was charged with second degree robbery (§ 211; count 1) and grand theft of a firearm (§ 487, subd. (d)(2); count 2). It was further alleged that he had a prior conviction pursuant to both section 1170.12, subdivisions (a)–(d)/section 667, subdivisions (b)–(i) (Three Strikes law) and section 667, subdivision (a)(1) (prior serious felony).

### **Case No. PCF298244**

In a felony complaint filed on April 14, 2014, Sanchez was charged with attempted murder (§§ 664/187 subd. (a); count 1), assault with a deadly weapon (a hammer) (§ 245, subd. (a)(1); count 2), and resisting arrest (§ 69; count 3). As to count 1, it was further alleged that Sanchez personally used a deadly and dangerous weapon (§ 12022, subd. (b)(1)) and personally inflicted great bodily injury (§ 12022.7, subd. (a)). As to count 2, it was further alleged that Sanchez personally inflicted great bodily injury (§ 12022.7, subd. (a)). As to counts 1 and 2, it was further alleged that Sanchez had two prior strikes (§ 1170.12, subds. (a)–(i)/ § 667, subds. (b)–(i)); two prior serious felonies (§ 667, subd. (a)(1)); and two prison priors (§ 667.5, subd. (b)). As to

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<sup>1</sup> Subsequent statutory references are to the Penal Code.

count 3, it was further alleged that Sanchez had two prior strikes (§ 1170.12, subds. (a)–(i)/ 667, subds. (b)–(i)); and four prison priors (§ 667.5, subd. (b)).

On May 22, 2014, a doubt was declared as to whether Sanchez was competent to stand trial and criminal proceedings were suspended (§ 1368). The trial court appointed Dr. Luis Velosa to evaluate Sanchez. Dr. Velosa concluded Sanchez was not competent to stand trial.

On November 6, 2014, following the District Attorney’s earlier request that a second doctor be appointed, the trial court appointed Dr. Andrew Cavagnaro. Dr. Cavagnaro’s opinion was that Sanchez was competent to stand trial. Dr. Cavagnaro noted in his report that during the six months since Dr. Velosa’s evaluation, Sanchez had been prescribed psychotropic medication that helped improve his behavior “significantly the past few months.”

On February 19, 2015, the trial court found Sanchez competent to stand trial.

**Combined Cases (PCF298173B and PCF298244)<sup>2</sup>**

On February 19, 2015, after Sanchez was found competent to stand trial, he pleaded not guilty by reason of insanity. The trial court appointed Dr. Doriann Hughes and Dr. Thomas Middleton to individually assess Sanchez and file section 1026 reports. Both doctors concluded that Sanchez was sane at the time he committed his offenses and thus did not meet the criteria for a not guilty by reason of insanity finding.

The trial court made no ruling on the plea of not guilty by reason of insanity, as nothing was under submission. Instead, on September 24, 2015, Sanchez entered a plea of no contest to all charges and allegations in both cases. The court found a factual basis for the pleas.

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<sup>2</sup> The Notice of Appointment of Medical Examiners, dated February 19, 2015, is the first document in the record listing both case No. PCF298173B and case No. PCF298244 together. Thus, for purposes of the statement of the case, from this point forward, both cases will be addressed together.

On January 28, 2016, the trial court granted Sanchez's *Faretta*<sup>3</sup> motion. The trial court continued the sentencing hearing.

On March 25, 2016, Sanchez requested that counsel be reappointed. The trial court granted the request and again continued sentencing.

On July 25, 2016, Sanchez filed a motion to withdraw his no contest plea. Sanchez asserted that at the time he entered his no contest plea he did not understand the consequences of entering into the plea, did not understand his constitutional rights related to the plea, and was not of sound mind. The hearing on Sanchez's motion to withdraw his plea was held on November 29, 2016.

On January 13, 2017, the trial court issued a written denial of Sanchez's motion to withdraw his plea.

Judgment was imposed on January 18, 2017. In case No. PCF298173B, the trial court sentenced Sanchez to state prison for the aggravated term of five years on count 1 (robbery). In case No. PCF298244, the trial court sentenced Sanchez to the indeterminate term of 25 years to life in state prison on count 1 (attempted murder); to the aggravated term of four years on count 2 (assault with a deadly weapon), to be served concurrent to the count 1 sentence in case No. PCF298173B; and to the aggravated term of three years on count 3 (resisting an executive officer), to be served concurrent to the count 1 sentence in case No. PCF298173B. The People dismissed the remaining counts and allegations.

On December 14, 2017, Sanchez timely filed a notice of appeal from the trial court's January 18, 2017, judgment.<sup>4</sup>

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<sup>3</sup> *Faretta v. California* (1975) 422 U.S. 806, 819.

<sup>4</sup> On August 11, 2017, Sanchez filed a writ of habeas corpus with the Fifth District Court of Appeal seeking leave to file a belated notice of appeal, asserting his trial counsel provided ineffective assistance by failing to file a notice of appeal on his behalf, as requested. On November 9, 2017, this Court granted Sanchez leave to file a notice of appeal on or before 30 days of that date. His notice of appeal was received by the Tulare County Superior Court on November 29, 2017.

## **STATEMENT OF FACTS**

### **Case No. PCF298173B**

On April 2, 2014, Sanchez forcibly stole a rifle from a sporting goods store.

### **Case No. PCF298244**

On April 9, 2014, Sanchez hit M.J., a disabled man, several times with a hammer, fracturing M.J.'s skull and causing injury to his body. The next day, Sanchez punched in the face the female officer trying to arrest him, injuring her.

## **APPELLATE COURT REVIEW**

Sanchez's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that Sanchez was advised he could file his own brief with this court. By letter on February 27, 2019, we invited Sanchez to submit additional briefing. On March 14, 2019, Sanchez filed a response dated March 11, 2019, which we have read and considered.

After independently reviewing the entire record, we have concluded there are no reasonably arguable legal or factual issues.

## **DISPOSITION**

The judgment is affirmed.